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PEACE-BUILDING AND CRIMINAL JUSTICE ISSUES:

Student Consultative Forum

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Peace-building and Criminal Justice Issues
Student Consultative Forum
Abbotsford, B.C.
March 24, 1997

Final Report
on a Consultation Meeting Organized by:

The Department of Criminology and Criminal Justice
University College of The Fraser Valley,
Abbotsford, B.C.

&

The International Centre for Criminal Law Reform
and Criminal Justice Policy
Vancouver, B.C.

With the financial support of :

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Introduction

We are pleased to present the following report on the consultation meeting which took place on March 24, 1997, at the University College of The Fraser Valley. The meeting focused on policy issues relevant to the various international peacebuilding initiatives in which Canada is or may become involved. The consultation was the first one, among the many others that have taken place across Canada on the same subject during the last twelve months, which specifically focused on the criminal justice issues that are always likely to arise within such initiatives, particularly in post-conflict situations. The consultation meeting was also different from many others in that it was designed specifically to encourage the participation of college and university students.

The forum was organized jointly by the Department of Criminology and Criminal Justice of the University College of The Fraser Valley (Abbotsford, B.C.) and the International Centre for Criminal Law Reform and Criminal Justice Policy. Invitations to participate in the forum were sent to students from departments of political sciences, law, criminology, or international studies, from the University of British Columbia, the University of Victoria, Simon Fraser University, Camosum College, the University College of The Fraser Valley, Douglas College, and Malaspina University College.

Participants received, in advance of the meeting: an agenda; a consultation document ("*Peacebuilding and Criminal Justice - Assisting Transitions From Power to Authority*", by Yvon Dandurand) which had been prepared in order to facilitate discussions (see: *Annex II*); and, a "List of Questions for Discussions on Thematic Issues" (see.: *Annex III*). Most participants obtained direct access to the documentation through a computer web-site created especially for that purpose. Finally participants also had access to a briefing paper on "*Peacebuilding and Post-Conflict Reconstruction - Defining Peacebuilding*" prepared by Necla Tschirgi, International Development Research Centre, for the DFAIT Peacebuilding Consultation, Ottawa, February 1997.

The consultation meeting was a success, in spite of the fact that the project's short time-frame did not allow the student coordinating committee to recruit as

many participants as it had hoped. The proceedings presented in the pages which follow will allow the reader to judge of the intensity of the discussions that took place and of the usefulness of the suggestions that were made.

At the beginning of the meeting, student-participants were asked whether they had ever heard, before receiving an invitation to participate in the consultative forum, about Canada's initiatives in the context of international peacebuilding efforts. At least two thirds of them answered by the negative. Many of them nevertheless prepared themselves for the meeting and arrived with their own suggestions and ideas for discussion. By the end of the meeting, it was probably fair to say that all participants had not only developed a new appreciation for the complexity of the issues, but had also come to a better understanding of the importance of Canada's efforts in this area.

The usefulness of the consultation meeting should not, however, be reduced to its value as a means to better explained Canada's current policies and initiatives in the area of peacekeeping and peacebuilding. Participants also arrived at a number of conclusions and observations which may be of assistance in further developing our national policies in these areas. Although participants were not, as such, asked to formally enumerate all of their recommendations, there were a number of themes which emerged from the discussions around which there seem to be a strong consensus. These were the following:

- Canada ought to intensify its participation in post-conflict peacebuilding initiatives, but not at the expense of other international social development initiatives which may play a role in preventing conflicts.

- Greater efforts should be devoted to making Canadians, and in particular young Canadians, better aware of Canada's peacebuilding initiatives.

- More discussion needs to take place, in Canada, on ways and means by which Canadian youth and young professionals can make their full contribution to peacebuilding initiatives.

- It is necessary to develop models and programs which involve young Canadians in concrete peacebuilding projects, including projects in the area of criminal justice.

- Canada's youth can benefit and learn from new experiences in the area of international peacebuilding and they are eager to participate in ongoing initiatives.

- The coordination mechanisms established by the Canadian Government, as part of its overall peacebuilding initiative, should be reviewed to ensure

that it provides effective ways to mobilize Canadian youth for participation in the various initiatives.

- The new standing roster of human rights experts should perhaps be amended to include a component for young professionals with an interest in the area, but not necessarily a whole lot of experience yet.

- Although efforts to support political democratization processes in post-conflict situation need to continue, greater, more systematic attention must be paid to issues of human security and to rebuilding law enforcement and criminal justice institutions in war-torn countries.

- Most peacebuilding initiatives are likely to require a significant, long-term, investment on the part of participating countries. Canada cannot get involved in every single initiative that might be undertaken by the international community. Participants felt that Canada should make explicit the criteria it uses, beyond that of political expediency and enlightened self-interest, for deciding whether or not to get involved in a particular initiative.

- It is not sufficient to preach greater respect for human rights as a general principle. In all cases, Canada should lead by the example it sets in this area.

- There exist a large number of relevant human rights and criminal justice international standards and rules to which peacebuilding efforts, particularly in the area of criminal justice, should refer directly. For instance, efforts to re-construct law enforcement and criminal justice systems should be guided directly by existing United Nations standards.

- Public support for democracy and democratic institutions ultimately rests upon the ability of criminal justice institutions to enforce the rule of law. The re-building of effective criminal justice institutions should be treated as an immediate priority within all peacebuilding initiatives.

- Law reform initiatives undertaken as part of peacebuilding initiatives must be congruent with local cultures, values and legal traditions.

- More discussion needs to take place, in Canada, on various ideas and experiences which demonstrate concretely how technical assistance in the area of criminal justice can work for peace. This could offer a practical starting point on a subject which requires a great deal more research and evaluation.

- Canada's international assistance in the criminal justice field should focus on, among other things, the demilitarization of law enforcement and correctional institutions.

- Canada assistance should also focus on the establishment of effective firearm regulation to deal with the proliferation of weapons in a post-conflict situation. This problem cannot be effectively addressed by disarmament policies alone.

- Canada has gathered a considerable amount of expertise in the delivery of services to victims of crime. That expertise, although under-utilized in current peacebuilding initiatives, is directly relevant to peacebuilding initiatives in a post-conflict situation.

- Canada should explore the possibility of developing concrete approaches to assist other countries in dealing effectively with the problems associated with the demobilization of young combatants and child-soldiers. This is potentially an area in which young Canadians can make an important contribution.

- Adversarial models of conflict resolution and of justice, although well established in most Western countries, may not always be the most appropriate ones in a post-conflict situation.

- Models of community involvement and empowerment in the area of criminal justice have been developed in Canada which could be relevant to other countries efforts to rebuild the legitimacy of their own criminal justice institutions.

- A restorative justice approach to criminal justice offers some real promises of reconciliation and peace to war-torn countries. However, It may also offer some difficulties from the point of view of the rights of victims and minority groups.

- Canada should encourage systematic research on the transferability of various criminal justice and law enforcement practices and seek to articulate a better understanding of the conditions under which certain models are indeed transferable to other contexts, cultures or legal systems.

As they were getting ready to leave the meeting, participants were asked to comment on the usefulness of the meeting, from their own perspective. The comments received were unanimous on three points: a general satisfaction with the overall experience, a new or renewed interest in the issue, and a desire to participate in other similar events should the opportunity present itself. Furthermore, many participants expressed the view that the quality and depth of the discussions that took place during the workshops or the last plenary session had been very impressive and quite stimulating. One student-participant,

however, complained that she had had a hard time trying to follow the arguments and that she had not found the discussion paper and other material provided to her particularly helpful.

We are grateful to the Canadian Centre for Foreign Policy Development, and in particular to its National Director, Mr. Steve Lee, as well as to the Department of Foreign Affairs and International Trade for their generous support. We hope that the experience can be repeated sometime soon. We would also like to thank all those who accepted to participate as resource people, as well as the members of our student coordinating committee, Miss. Monique Trépanier (ICCLR&CJP), Mr. Jay Jones (UCFV), Ms. Clare Goleman (SFU), Mr. Obi Okafor (UBC), Mr. Adéwalé Adeleke (UBC), and our rapporteur-en-chef, Ms. Pamela Smith-Gander.

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Peacebuilding and Criminal Justice Issues

Student Consultative Forum, Abbotsford, March 24th, 1997
University College of The Fraser Valley

Opening Session

Panel:

Dr. Peter Jones
President, University College of The Fraser Valley

Daniel C. Préfontaine, Q.C.
Director, International Centre for Criminal Law Reform and Criminal Justice Policy

Yvon Dandurand
International Centre for Criminal Law Reform and Criminal Justice Policy;
& Department of Criminology and Criminal Justice, UCFV

John Evans, Ph.D.
Senior Associate, International Centre for Criminal Law Reform and Criminal Justice Policy

Rapporteur: Pamela Smith-Gander, *Articled Student, Conroy & Company*

Opening Remarks by Prof. Yvon Dandurand – Welcome. Explanation of the structure of the forum and workshops. Acknowledgment of the financial support of the Canadian Centre for Foreign Policy Development and the Department of Foreign Affairs and International Trade.

Welcome from Dr. Peter Jones:

- Welcome to all on behalf of UCFV. The institution is proud to have helped provide students and young professionals with an opportunity to participate in a foreign policy consultation process.
- Peace must be understood as an active, dynamic process. One is reminded of "The Peaceable Kingdom" by Barbara Ward. In it, Canada is cited as an example of a country that has successfully learned to be a peacebuilder.

Welcome from Daniel Préfontaine:

- Why we are here? The importance of participating in shaping some of our national policies. Some remarks about the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR&CJP);
  - The International Centre was created in 1991, when the presidents of the University of British Columbia, Simon Fraser University and the International Society for the Reform of Criminal Law (UBC, SFU and the ISRCL) approached then Prime Minister, Kim Campbell, and suggested Vancouver as an obvious choice for the establishment of such a centre of excellence.
  - Support from the BC and Ontario Law Foundations, Human Rights Groups, as well as from various levels of government made the establishment of the Centre possible. In 1995, the Government of Canada and the United Nations entered into an agreement which finalized the official affiliation of the International Centre with the United Nations, as part of the Crime Prevention and Criminal Justice Programme.
  - The Centre was created in order to provide a vehicle through which governmental, non-governmental and academic groups, as well as other interested individuals could make a significant contribution to the various existing process of criminal law reform at the international, regional and national levels. A second focus was to be a resource for the Canadian government in the formulation of foreign policy relating to human rights and criminal justice.
  - The Mission of the International Centre is based on a commitment to promote human rights, democracy and good governance. These principles provide the Centre with concrete parameters within which it affirms the fundamental values to which it subscribes. These values include: respect for human dignity, justice, the rule of law, fairness, equity, public participation in decision making and institutional accountability. The Centre's mission is one which emphasizes the role of criminal law and the importance of criminal law reform as essential means to defend these values and give them a concrete expression in the face of the challenges with which national and trans-national crime continue to confront citizens of all countries.
  - It is very important for those countries that have suffered through domestic strife to obtain assistance in the rebuilding of their institutions, specifically those institutions referred to in todays's forum on 'peacebuilding and justice'.
  - Long term rebuilding of domestic infrastructures requires assistance, as it is the breakdown of the legitimacy of those structures that often predates the conflict.
  - Today's consultation forum is part of a broader national process

coordinated by the Canadian Centre for Foreign Policy Development. The policy options formulated today by this group will be communicated to the Department of Foreign Affairs and International Trade.

Peacebuilding and Criminal Justice – *Yvon Dandurand*

- The government of Canada has made a commitment to open its foreign policy to all Canadians. This is particularly important in the areas of criminal justice and human rights. In the last year, the Government of Canada has established the Canadian Centre for Foreign Policy Development and the John Holmes Fund to support discussion of foreign policy issues among Canadians.
- Today's forum was made possible by a financial contribution from the Department of Foreign Affairs and International Trade. There has already been several other events held in Canada, over the last year, many of them dealing specifically with the subject of peacebuilding and including a national forum in Ottawa, at the beginning of February 1997.
- However, previous consultation meetings have not tended to focus specifically on justice related issues as they pertain to the peacebuilding process.
- In 1996, Minister Lloyd Axworthy announced a new Canadian initiative to provide Canada with the mechanisms it requires to do a better job as part of international peacebuilding initiatives. Canada's peace-building initiative, supported by the Peacebuilding Fund, aims to increase Canada's capacity for rapid, coordinated and flexible responses to intra-state conflicts. Since then, a Canadian stand-by roster of human rights experts has also been created to assist with the human rights activities aimed at building capacity in societies previously riden by violent conflicts.
- The concept of peacebuilding, as it is currently understood, presupposes a very interventionist approach on the part of participating countries. Such an interventionist approach is apparently supported by the Canadian public, in the name of the protection of human rights and in oder to affirm important values such as democracy and respect for the rule of law. However, many people are still confused about the concept of 'peacebuilding' itself:
  - It is not always clear how one country can go and build peace in another country?
  - What about the social and civil implications?
  - What do we mean by peace?
- Related issues:
  - What concrete protection can realistically be offered to human rights in a post-conflict situation?
  - What is democracy? Is it really always a pre-requisite to peace?
  - Is our concept of liberal democracy necessarily the concept that the target country embraces?
  - Behind the concept of peacebuilding, and as a justification for

getting involved in related activities, there is also an evolving concept of "security", defined not only in terms of national security, but also in terms of human security.

- The nature of armed conflicts has evolved over the last fifty years. Most conflicts in the world today tend to be "intra-state" conflicts, as opposed to inter-state ones. Most of them have important religious and ethnic dimensions which can only further complicate peacebuilding initiatives. Interventions in such situations still involve complex issues relating to state sovereignty and to the principle of non-intervention in the internal affairs of a state by other states.

- Why is Canada so concerned with other country's problems?
  - The world is shrinking in size and there are issues that stretch beyond national borders.
  - Firearms control is an excellent example of a problem which has implications for countries outside of the immediate conflict zone. It is obviously a very important international concern, along with the concomitant links between trafficking in illegal arms and other forms of trans-national crime.

- Generally, peacebuilding can be defined in at least two ways:
  - Firstly, the maintenance of peace within a society;
  - Secondly, the reinstatement of social and political institutions in a post-conflict scenario:
    - This can be a very difficult situation as the government structures that were in place were often those very same structures which have been used as tools of repression against the population.
    - There is really no doubt that the reconstruction of the conditions necessary to make a state viable, democratic and stable in a post-conflict situation necessarily involves, as a matter of priority, the construction of fair, credible and effective criminal justice institutions.
    - The building anew of criminal justice institutions is usually urgent because the state is expected to be able to put an end to impunity and to provide some public safety. When it fails to do so, the state and whathever democratic institutions might be in placed are quickly discredited in the eyes of the population. It is also an urgent task because, in war-torn countries, the conflict has usually created a power vacuum which offers fertile grounds for organized crime, corruption and various other forms of trans-national criminality.
- The reconstruction of social institutions, specifically the implementation of a criminal justice and law enforcement structure, is essential for the restoration of peace.
- Peacebuilding must be largely a civilian process.

Civilian Policing in Peacekeeping Operations – *John Evans*

"Grbavica, Bosnia-Herzegovina: A lock of Sudeta Mehanovic's hair was stuck to the ceiling of her apartment. Blood was its glue. Blood in the pattern of roses also splattered the wall around a chair where the 65-year-old woman spent her last hours, screaming for help. Somebody shot her in the head at close range last Tuesday night after spending several hours beating her to a point somewhere between life and death, and ransacking the place.

Horrible murders can happen in any urban area. But Mrs. Mehanovic's killing is being seen in a larger context: as a symbol of the failure, thus far, of a UN police force and the NATO-led peace mission in Bosnia to provide security as Serb-held suburbs of Sarajevo revert to Serb police. NATO spokesman insisted there is nothing their formidably armed units around Sarajevo can do to protect people like Mrs. Mehanovic. The North Atlantic Treaty Organisation is not a police force, the spokesmen say.

Officers from the UN International Police Task Force, which has 41 men from eight countries in Grbavica, say they can do little to stop the tide of violence. They have come to Bosnia without weapons and without a mandate to halt crime, only to observe and monitor it.

In Grbavica, the sole station for the international police is on a hill nearly a mile outside of town, and most people do not have cars. Officers there Friday said they did not hear Mrs. Mehanovic's screams. Nor does the station have any working telephones. Besides, the officers said, they do not go out at night. It's dangerous out there, one said."

International Herald Tribune, November 3rd, 1996

- The preceding quote illustrates the failure of the UN "Peacekeeping" force to be able to protect the citizenry in a post conflict situation.
- There needs to be a re-implementation of communications, and, more importantly, domestic, civilian police forces.
- Canada has been involved in peacekeeping forces since the time of Lester Pearson.
- The civilian police forces are not the military police, they are your police 'down the road'.
- The RCMP has contributed greatly to the peacekeeping police forces and so did, although to a lesser degree, other police forces in Canada.
- They face extraordinary challenges acting as police monitors in the post conflict situations.
- The civilian police that are supplied by the UN (referred to as CIVPOL) require certain qualifications ranging from 6 years of experience to being able to drive a car;
- There is a great range of experience across those police coming from other countries.
- In most situations, the police monitors are unarmed and have no mandate to arrest:
- Haiti is an exception. The UN monitors are armed as there was no police

force to monitor.

- The mandate for CIVPOL is extremely vague and ambiguous:
- They do not have police powers, per se;
- They are to function as monitors of the local, domestic forces;
- The problem arises when the civilian police forces are in chaos;
- To whom does the populace turn?
- The end of the cold war brought about a new level of conflict, specifically intra-state and lack of control.
- Peace agreements are extremely fragile and the international bureaucracy is very cumbersome.
- The UN and its member states want, before intervening, a greater level of certainty than the present system and structure can provide.
- There is a large range of procedures between conflict prevention and post-conflict policing and institution building.
- The question of who ought to deploy, if there ought to be the deployment of military or civilian police personnel, is a vexing one.
- In Cambodia, the entire country was placed under UN protection:
- The mandate was not a simple matter as the entire criminal justice system had been completely destroyed.
- A criminal justice package is essential to the rebuilding and peacebuilding process.
- CIVPOL is facing many new challenges as, in our time, they are as much an investment in society's future as an instrument for the security of the present.

Discussion Group #1:

The Relevance of Human Rights and Other International Standards to the Peacebuilding Process

Resource Person: *Prof. Ron Dart, Department of Political Science, UCFV*
Facilitator: *Obiora Okafor, Graduate Student, Faculty of Law, UBC*
Rapporteur: *Randall Hyland, Student, Faculty of Law, UBC*

- The round-table discussion began with a presentation by Professor Ron Dart, entitled "Human Rights: A Brief History of a Tradition" which highlighted four human rights issues in international law: philosophical-moral, legal status, monitoring legal status, and compliance. Professor Dart noted the global nature of human rights embodied in a number of covenants including the Universal Declaration of Human Rights, and the International Bill of Human Rights.

- Following professor Dart's presentation, Mr. Préfontaine referred to the Convention on Elimination of all forms of Violence against Women, and the Convention on the Rights of the Child. He emphasized these recent declarations' influence on Canadian foreign policy and CIDA's policies and activities in the area of development assistance (including specific projects designed to assist countries implement these conventions).

- The concern was raised that some human rights analysts focus on legal instruments and international institutions and not on how well they function, or if they make a difference. The Convention on Elimination of all forms of Violence against Women was given as an example: many signatories, weak language and enforcement mechanisms.

- It was submitted that international pressure to reform human rights abuses works best when there is effective local pressure for change. The example given was the Nigerian oil workers' strike and the social movement against pollution by Shell Oil. Vigilance against human rights abuses must not only focus on the state. TNCs and banks are the new states in terms of power, influence and finances.

- The assertion was made that regimes which commit human rights abuses cannot be pushed too hard. Pressure must be applied nonetheless, for the alternative is our despair. How to influence seemingly intractable regimes? One example is the International Centre's contribution to criminal law reform in China and the training of young justices there. It is hoped these individuals will have a positive ripple effect throughout the Chinese legal system.

- There might also be a dark side to Canada's influence on the policies of other countries, particularly in the area of arms sales.

- In addition, the Canadian government asks countries less significant to Canada's economic interests (e.g., Nigeria) the "hard questions" on human right abuses, while being reluctant to ask those same questions of more important states (e.g., People's Republic of China).

- Finally, global concerns such as human rights abuses in foreign countries often seem too remote to most Canadians, who are more concerned with personal problems. How can we encourage the media to provide more coverage to human rights issues, human rights violations in other countries? The Canadian government's direct and indirect support for repressive regimes deserves greater public scrutiny.

Discussion Group #2:
The Principles of Restorative Justice, Retributive Justice and Other Methods of Conflict Resolution

Resource Person: *Al Patinaud, Doctoral Student, School of Criminology, SFU*
Facilitator: *Adéwalé Adeleke, Graduate Student, Faculty of Law, UBC*
Rapporteur: *Pamela Smith-Gander, Articled Student, Conroy & Company*

- Restorative justice is seen as a useful basic principle to be applied in the re-implementation of criminal justice systems in post-conflict situations;
- What is justice? Can we speak of criminal justice without referring to broader issues of social justice?
  Restorative justice – "restoration of harmony in the community".
  - Restorative v. retributive justice – defining in terms of differences.
  - Restorative justice can, in a way, be a fallacy. If 60,000 people are dead now, how is it possible to return to where you were? It is important to look at what there was before. Is that really what the desired goal is?
- Are systems based on the dominant Western adversarial model of justice at all useful in a post-conflict situation? Should the new institutions not promote reconciliation, and thus, a more restorative approach to criminal justice?
- Is it not also important to look at the mechanisms within the criminal justice system which have permitted impunity or allowed abuses of power to take place?
- Is it not useful to think in terms of the importance of restoring the community to its position as the arbiter of community standards?

- What gives anyone the right to impose onto others a particular view of what is the 'right' way to go about building an effective justice system?
- What right or legitimacy does anyone have to go into other countries and dictate to them what the appropriate process of peace building is?
- Where do peacebuilding and restorative justice concepts fit in a post-conflict scenario? Should a greater emphasis be placed on law enforcement or on broader social development work?
- The restoration of order that is not retributive is the goal. Retributive justice may , in itself, often contain the seeds of further conflict.
- Is there any way to avoid conflict?
- Summary of what the goals of restorative justice may be:
  - to resolve conflict;
  - to restore harmony;
  - to provide a mechanism whereby participants in the conflict might be held publicly accountable;
  - to provide a forum in which the "truth" might be heard;
  - to engage the involvement of those who have an investment in the community.
  - to provide an opportunity for some important social healing to take place.
- What are the practical means of promoting community involvement? Can some Canadian experiences in the field of crime prevention, or community policing not offer some useful examples?
  Is it feasible to go to the community itself, assess its values, identify the stakeholders and build on an existing willingness to build peace?
  - Part of the problem always is that the values held by different members of the community may often be in conflict.
  - How can this be addressed during peacebuilding efforts that are trying to build on existing community strengths?
  - How can the UN (or another external party) assist a country in the development of a culturally relevant justice system?
  - The UN ought to, when called upon to resolve a conflict, acknowledge the differences and the difficulties between the sides and perhaps simply separate the parties.
  - In many cases, simply offering assistance to the ruling party may simply amount to perpetuating existing injustices and may simply exacerbate the underlying conflict.
- It is also important to address the economic factors that are, in most cases, the basis of the conflict.
- Essentially, it is important to address the underlying factors that engendered the conflict in the first place. It is realistic to expect to put in place a fair and efficient criminal justice system without first addressing some of the broader social justice issues that have likely precipitated the conflict in the first place?
- Once the basic needs of the population have been dealt with (i.e. food, shelter, safety), it becomes more reasonable to look at restorative justice.
- It is also important to make sure that the system that is being implemented is

a system that is culturally relevant to the population. In many cases, a restorative approach will be more akin to the traditional, indigenous methods of conflict resolution of a country. These traditional methods must be built upon, as opposed to being negated by the importation of foreign concepts.

- The solution proposed to a country as part of a peacebuilding process must be consistent with the legal culture and the legal tradition already in place. For example, in Nigeria, there is the Sharia and the Nigerian legal system. These systems have existed in parallel.
- There are probably several ways of building a coherent, culturally sensitive, justice system:
  - Separate the warring factions entirely;
  - Bring about jurisdictional agreements;
  - Acknowledge and work co-operatively in areas of crossover.
- Should community development be emphasized, in peacebuilding efforts, as opposed to economic development?
- Restorative justice is long term goal that must be culturally relevant and be wanted by the people for whom it is to be implemented.
  - There must be clarification and an understanding of the precursors of the conflict.
  - Great care must be taken to avoid imposing an unwanted system.
  - A restorative approach must be pursued within the context of the agreed upon social and cultural norms.
  - Due regard must continued to be paid to the relevant international standards, as local community standards cannot always be expected to in conformity with recognized international human rights standards.
  - It cannot be assumed that the implementation of a 'democratic' system (usually understood in terms of electoral democracy) will necessarily be congruent with the desire of the target community.
  - An important goal of restorative justice is to stabilize the community. Therefore, the restorative justice model must be congruent with the underlying political and cultural norms of the receiving country or community.
  - Donor countries ought to structure aid to reflect economic and political priorities; "society-building" efforts, especially in the area of education, will continue to remain crucial.
  - The re-establishment of a justice system (and necessary structures) is also an important priority for action. It is, however, a long-term process that must take into account cultural differences.
  - A discussion about the promotion of electoral democracy as a necessary component of peacebuilding activities followed.

Discussion Group #3:

Addressing the Needs of Victims of Crime and Abuse of Power Within the Peacebuilding Context: Focus on Vulnerable Groups (i.e. Women. Indigenous Peoples , Children)

Resource Person: *Prof. Yvon Dandurand, Criminology, UCFV,*
Facilitator: *Jay Jones, Criminology Student, UCFV*
Rapporteur: *Monique Trépanier, ICCLR&CJP*

Participants in the workshop were welcomed by Jay Jones, facilitator for the workshop. Professor Yvon Dandurand, resource person for the workshop, then initiated a discussion of issues surrounding peacebuilding and victims of crime and abuse of power, by describing who tends to be the victims in post-conflict situations, as well as by noting how problematic the term "peacebuilding" can be in concrete situations. When we talk of peacebuilding, there sometimes is an assumption that the task consist in re-building what used to exist, but this is rarely the case, as situations can rarely return to what they used to be. Professor Dandurand also briefly addressed the issue of victim compensation by giving participants an overview of previous means to achieve this objective. Examples such as tribunals in Argentina and Chile, truth commissions, and reconciliation committees, in South-Africa, were given. A general discussion followed.

- The issue of "trust" was first brought forward. It was noted that trust is an important element affecting a victim's healing process. It was observed that distrust in police figures or in people in positions of authority is a barrier to the healing process, as well as to the restoration of public order. The fact that crimes such as sexual assault have been committed not only by perpetrators of violence in some conflicts, but also at times by peacekeepers, has consequently led to victims being deprived of a sense of security or assurances that they will not be further victimized. The involvement of female peacekeepers in Canadian peacekeeping initiatives was strongly urged as a means of addressing the concerns of women victims who would be more reluctant to deal with male peacekeepers. The distrust of victims vis-à-vis United Nations (UN) initiatives was also noted in relation to the victims of crime in the former Yugoslavia and in Rwanda. These victims of war crimes have expressed grave disappointment in the international community for its failure to co-operate with the UN International Tribunals by refusing to pursue indicted war criminals. It was further mentioned that victims can often reconcile themselves and get on with their lives, but that this is only applicable insofar as they are not forced to tolerate additional violence. There was general agreement with all of these statements.

- Discussion of the issue of trust and security then led to one surrounding the reintegration of child soldiers in society, and the fact that it usually takes much more than a peace treaty to convince combatants, including these children, to turn in their guns. The need for a mechanism to "de-program" child-soldiers was emphasized. A brief debate on the use of the term "de-programing" or "re-programing" led all to conclude that, for lack of a better term, the word "socialization" probably encapsulated best what was meant as a means of guiding a youth away from their life as a child soldier and the values and mentality that came with that role. The question of the urgency of taking steps to help these children reintegrate into a new fragile civil society led to the question of whether this could be a role played by peacebuilders.

- Several comments ensued concerning the need to find long-term solutions to conflicts. Initiatives to assist populations with the rebuilding of their societies have often proved to be too short in length to effectuate any concrete changes and are not comprehensive enough. State governments may be asked to re-commit funds as well as peacekeepers or peacebuilders to the same area due to the short term "band-aid" solutions that are too often applied.

- A question was then raised as to where Canada priorities in the area of peacebuilding should be set? Obviously, neither the UN nor Canada can afford to get involved in peacebuilding initiatives around the globe in every case where there is a conflict. If long-term social development programs, including socialization and education programs for child soldiers, are to be initiated as part of all peacebuilding initiatives, how do we decide which conflicts would take precedence? Responses were varied. Some voiced their support for the idea of setting priorities on a geographical basis. For instance, Canada's own efforts could concentrate on conflicts taking place within its own hemisphere. It was noted that if governments focus on nearby countries, the state security and financial benefits to the donor country were obvious. Canada's involvement in the North American Free Trade Agreement (NAFTA), its security alignments, and its trade ties were all described as sensible reasons to focus on countries close by. A counter argument addressed the "fairness" of only responding to conflicts that occur in one's own hemisphere, given the obvious economic strength of the United States in comparison to countries in poorer areas of the world that lack the physical proximity to such a powerful neighbor. It was also noted that Canadian peace builders may encounter language difficulties, for example in a Spanish-speaking country, and that they may not necessarily be best placed to respond to some situations in Latin-America.

- The discussion then turned to the type of assistance often requested by

countries. It was emphasized that help is most often wanted in the form of economic reconstruction to aid in the rebuilding of roads, bridges, and airports. Social development has been traditionally defined as something that occurs after economic development has taken place. The general consensus was that state governments need to commit funds and personnel towards addressing the issues and problems associated with child victims, rape victims, child soldiers, etc..., as part of the peacebuilding process rather than following the "economic development first" model. The important contribution of Canadian and international non-governmental organizations and church organizations in delivering this kind of assistance was noted.

- The question of what Canadian youth could contribute to the peacebuilding process, particularly with reference to rebuilding criminal justice institutions, was then introduced. A suggestion was made that programs could be developed loosely based on a "training camp" or "college" model for young demobilized combatants and "child-soldiers". Several participants emphasized once again, that this type of project would have to take place over a fairly long period, since the "re-socialization" "de-programing" which must take place can only occur over a period of time. Such programs could allow young Canadians to get involved as well as to gain experience in their own professional fields as well as in the international development field. A focus on helping youths from requesting countries ought, in any event, to be an important part of any peacebuilding initiative. A focus on demobilized young combatants may be especially appropriate since this group is likely to produce many of the countries future leaders. Furthermore, by working with youth combatants from all sides of the conflict, the program could help foster a new understanding of and new respect for previous enemies. Canadian youth could contribute to the development of programs to assist, educate and provide child soldiers with the tools they need to re-integrate into their society and make a useful contribution to long-term peace. Children and youth from war-torn countries could also benefit from a part of the program that would allow them the opportunity to visit Canada and perhaps witness how youth in Canada play an active role in civil society.

- Finally, comments were made regarding overseas assistance. The futility of tying economic aid to specific projects favoring the donor country was mentioned as an example of how forcing countries to adopt specific programs or meet specific requirements often end with unsuccessful and/or short term solutions to the problems being addressed. Some participants countered this argument however, by stating that tying aid could still be feasible if it put the mechanisms into place so that peacebuilders did not have to return to the same area due to a resurgence of the conflict. Canada much teach by the example it gives. To do so, the links between Canada's trade and human rights policy must be reviewed and debated publicly. That particular debate is one which should involve youth.

- General observations:

  - Rebuilding criminal justice institutions is an important objective that should be included as part of the peacebuilding process.

  - The socialization of child soldiers and their re-integration in society are important issues that should form part of peacebuilding initiatives. Canadian youth, given the opportunity, are particularly well placed to assist in the development of an exchange program that would allow demobilized combatants to develop leadership skills. The program would have to be a long-term one and be culturally relevant.

  - The use of more Canadian women as peacekeepers would assist in the healing process of female victims, most notably by helping the latter trust that they will not be further victimized.

  - Canada should stop selling weapons, particularly if it is committed to setting an example.

Plenary Session

Reports from all rapporteurs.

Highlights of points discussed following the reports:

- Mediation and Restorative Justice: there is always the difficult problem of defining what is meant in fact by the concept of "community". How is the concept defined in a community broken by conflict?
- Restorative justice is a way in which it becomes possible to create a community based system in the future.
  - However, advocates for the rights of children, youth and victims of crime in general are often very concerned with the implementation of restorative justice approaches, as these approaches do not necessarily offer the same procedural guarantees as the traditional adversarial systems.
- Canada may be in a good position to share its experience with other countries regarding various issues relating to the rights of "aboriginal peoples" and how they can be protected through the criminal justice process.
  - Sharing with other countries our experiences of failure may be as important as sharing our experiences of success.
  - It is important to model the values we wish to affirm.

Canadian youth must continue to be involved in defining their place within Canada's peacebuilding and international development efforts.

Other issues:

- Awareness of the values we project is imperative;
  - Canvass ALL levels of a community or society when assessing the desirable system to implement.
  - Be careful not to fall into ethnocentric traps.
  - In trying to understand and assess a particular post-conflict situation, experience has demonstrated that the "top-down" approach is not always the best way to gather relevant information.
  - There has been a shift from the academe being the sole providers of knowledge, to the community being providers of cultural and social values.
  - When the human rights discourse is brought into the community realm, the community human rights standards must be the starting point, moving into the regional, national and then into the international realm;
    E.g. what about female circumcision? At a community level it may be a desirable practice
    - The reunification of warring factions cannot be imposed.
    - Social and community values are not static, it is a dynamic process.
- Trying to rationalize what are largely Eurocentric values into other societies is where the problems often begin.
- Another concern is the power of the multinationals, many of whom appear to be beyond the control of nation states. The role of these organizations in various conflicts cannot be ignored.
- Is the goal to 'be all things to all people'?
- Sustainability is another concern.
  - The limits of majority democracy become apparent – it is often a mistake to assume that the legitimacy of a particular power arrangement can be established and maintained simply by the ballot box.
  - It is important not to encourage receiving countries to borrow models indiscriminately. Obviously, more work is required to assess the transferability of criminal justice models and practices which are being considered for adoption by receiving countries.

  Culture and society are not static processes.
- In a post-conflict situation, child-soldiers are obviously not the only ones affected.
  - There are children in concentration camps, children whose families have been destroyed, refugee children, etc.
  - It is essential to address these problems. If not, the social situation can only continue to deteriorate.
  - Although reserving our compassion and our help for the most 'deserving' children may make us feel better, it may not always be the best strategic

approach to building peace. For example, child-soldiers, whether they appear to be deserving our help and our compassion or not, may prove to be the most important strategic goal in terms preventing future conflicts and building future leadership.

- It is the role of any and all of the members of the G7 to express their concrete and material support for regimes that are attempting to function in a democratic manner.
- Young people, in Canada and elsewhere, have a role to play in keeping their governments and their leaders clear on their contradictions.

Closing Session:

Summation: *Yvon Dandurand*
Closing: *Daniel Préfontaine*
Thank You: *Darryl Plecas, Ph.D., Professor, Dept. of Criminology and Criminal Justice, UCFV.*

ANNEX I

Agenda for The Meeting

THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE
UNIVERSITY COLLEGE OF THE FRASER VALLEY
and the
INTERNATIONAL CENTRE FOR CRIMINAL LAW REFORM
AND CRIMINAL JUSTICE POLICY

INVITE YOU TO:

PEACEBUILDING AND CRIMINAL JUSTICE IN CANADIAN FOREIGN POLICY

A STUDENT WORKSHOP-CONFERENCE

March 24, 1997
12:00 Noon to 4:30 p.m.
UCFV Abbotsford Campus
33844 King Rd.
Abbotsford, B.C.

ADVANCE REGISTRATION PREFERRED

To Register or for More Information Contact:

Jay Jones, (604) 820 9771, Email: fvjonj3u@ucfv.bc.ca
Clare Goldman, (604) 855 9849, Email cgoldman@sfu.ca
Adeleke Adewale, (604) 879 3647, Email: mnubia@aol.com
Obi Okafor, (604) 228 2492, Email: obiora@unixg.ubc.ca
Monique Trepanier, (604) 822 9872, Email: trepanier@law.ubc.ca

Or Visit our Web Site: **http://www.ucfv.bc.ca/workshop/**

PEACEBUILDING AND CRIMINAL JUSTICE IN CANADIAN FOREIGN POLICY

Student workshop

AGENDA

12:00
Opening Session

UCFV Theatre, Room B-101, Abbotsford

Welcome from Dr. Peter Jones, President
University College of the Fraser Valley

Welcome from Daniel C. Préfontaine, Q.C., Director and CEO
International Centre for Criminal Law Reform and
Criminal Justice Policy

Peacebuilding and Criminal Justice: Assisting Transitions from Power to Authority

Presentation by Yvon Dandurand
International Centre for Criminal Law Reform and
Criminal Justice Policy; Department of Criminology and
Criminal Justice, UCFV

Civilian Policing in Peacekeeping Operations

Presentation by John Evans, Ph.D., Senior Consultant
Internationl Centre for Criminal Law Reform and
Criminal Justice Policy

1:00 Recess

1:15
Reconvene at Kings Crossing
Convention Center

Group Discussion Sessions

Group # 1
The Relevance of Human Rights and other International Standards to the Peacebuilding Process

Resource Person: Ron Dart, Professor
Department of Political Science
University College of the Fraser Valley

Facilitator: Obiora Okafor, Graduate Student, UBC

Rapporteur: Chris Bolster, Student, UCFV

Group #2

The Principles of Restorative Justice, Retributive Justice and other Methods of Conflict Resolution

Resource Person: Al Patinaud, Doctoral Student
School of Criminology, SFU

Facilitator: Adeleke Adewale, Graduate Student
Faculty of Law, UBC

Rapporteur: Clare Goldman, Graduate Student
School of Criminology, SFU

Group # 3

Addressing the Needs of Victims of Crime and And Abuse of Power: Focus on Vulnerable Groups (ie., Women, Indigenous Peoples, Children)

Resource Person: Yvon Dandurand
International Centre for Criminal Law Reform and Criminal Justice Policy

Facilitator: Jay Jones, Criminology Student, UCFV

Rapporteur: Monique Trepanier
International Centre for Criminal Law Reform and Criminal Justice Policy

2:30 Recess / Refreshments

3:00
Closing Session

Closing Plenary

Briefings from the Discussion Group Rapporteurs

Summation by Yvon Dandurand
International Centre for Criminal Law Reform and Criminal Justice Policy; Department of Criminology / Criminal Justice, UCFV

Closing by Daniel C. Préfontaine, Director and CEO
International Centre for Criminal Law Reform and Criminal Justice Policy

Thankyou from Darryl Plecas Ph.D., Professor
Department of Criminology / Criminal Justice
University College of the Fraser Valley

4:30
Dinner

Kings Crossing Banquet Room A

ANNEX II

Consultation Paper

PEACEBUILDING AND CRIMINAL JUSTICE
Assisting transitions from power to authority

(Consultation Document)

Yvon Dandurand

International Centre for Criminal Law Reform and Criminal Justice Policy; and,
Department of Criminology,
University College of The Fraser Valley

We learn that Canada will be giving itself the tools it needs to make a more effective contribution to the various international peacebuilding activities that the world urgently requires. All of us will welcome today's opportunity to help shape our national policies in this important area.

Part of our challenge, however, comes from the fact that peacebuilding, as many people have pointed out, is still a relatively new concept. It most certainly represents an area where our good intentions far exceed our collective experience, if not our wisdom.

There is a new international discourse which speaks bravely in terms of peacebuilding, institution building, rapid reaction forces, and so on, as if these terms designated clear and unambiguous objectives or methods. In truth, we probably all know considerably less than we are prepared to admit about how to achieve these objectives. That, in itself, should dictate a measure of caution in setting our own national objectives in this area. We still have much to learn about how a nation can effectively help another in building domestic peace. What is not clear, beyond the rhetoric, is exactly how, with limited financial means and in a context already exacerbated by recent violence and persistent distrust, one promotes a culture of peace and respect for human rights, and helps create the necessary institutions in somebody else's country. Fortunately, however, the fact that the task is a daunting one, has not brought us to withdraw into helpless and irresponsible inactivity.

Peacebuilding is still an elusive concept. In general terms, at least in post-conflict situations, it refers to a number of activities designed to identify and support structures that can contribute to a consolidation of peace in order to avoid a relapse into conflict. Violence and conflict, we all want to believe, are avoidable and preventable. Otherwise, we would not be prepared to invest significant resources in peacebuilding. What we perhaps do not yet perfectly understand

is just how important is the role of the various social structures of authority in preventing violence. We must focus more clearly on the fact that part of any peacebuilding process involves restoring a destroyed or damaged authority structure as a means to advance a collective sense of trust, confidence and security within the population. We must also recognize that part of the challenge consists in providing a sound basis upon which the legitimacy of state institutions, including the legitimacy of social control and criminal justice institutions, can be rebuilt.

Violence in Often Rewarded

Describing one type of political violence as terrorism and another as emancipatory or legal - and therefore legitimate - is obviously subjective and political. When we look at the world around us, we can only observe that many social movements have managed to successfully used violence to grow in strength and to establish both social legitimacy and political influence. A recourse to terrorism has indeed served some groups very well. Violence is often rewarded.

The parameters of a particular peacebuilding initiative are often defined in the wake of a formal peace-agreement. However, many such agreements amount to a consecration of a political or territorial advantage obtained through violence and intimidation, and are therefore rarely fair to all parties. Most efforts to convince all sides in a recent conflict that violence does not pay-off and is not an appropriate way to resolve conflict contradict their own recent experience.

Ethnic and Religious Dimensions of Many Conflicts

Furthermore, it is worth noting here that most of the conflicts following which we are likely to intervene have ethnic or religious dimensions. These ethnic and religious dimensions of conflict have important implications for any peacekeeping and peacebuilding initiatives in which Canada is or may become involved. Minority rights conflicts and conflicts based on ethnic or religious identities are often associated with violence. Such violence can not realistically be expected to stop completely with the signing of a peace agreement or the promulgation of a new constitution. In most instances, the conflicts have deep roots in group identity and in belief systems.

One cannot hope to solve such conflicts overnight and should expect them to continue to complicate the peacebuilding process. What can be done, however, is to encourage the establishment of processes to ensure that all groups have a sense of representation and participation in the political life of their society. Bridges can thus be built progressively towards genuine mutual understanding between the various groups.

Four key policies have been identified based on the experience of countries that have tried to move in that direction. These are: devolution of power (obviously easier to achieve when

groups have a territorial identity); power sharing arrangements; electoral systems that seek reflect the plural character of the population; and cultural policies that promote harmonious relations[1]. In all of these areas, Canada has had successful experiences it can share with other countries.

Peace treaties often reflect an attempt to create such arrangements. Power sharing arrangements, in which all groups are represented in government, have the advantage of ensuring stability and of getting the parties that would otherwise be locked in conflict to understand each other's interests and develop a system of trust in governing the country. This system works best when there are only a few groups of roughly comparable size. Such arrangements often have the additional advantage of establishing a consensus on the management of the instruments of violence as all parties may be represented in the key institutions that deal with issues of security[2]. In fact, most agreements include provisions for some form of general disarmament which eventually must be enforced with the cooperation of all parties.

No single policy is sufficient to address the problems of peace, social order, political stability and participation in ethnically plural societies. At the same time, no ethnically plural society is likely to avoid using policies of devolution and power sharing in the long run, if it is to enjoy political stability, some level of social peace and an acceptable level of social cohesion. In all cases, such policies will have to reflect the historical experiences and the social structures of the individual society and be based on solid foundations of civil and common citizenship rights.

Power-sharing arrangements need sound electoral systems in order for people to be able to choose representatives who reflect the plural character of their society[3]. The reaffirmation of democratic values through democratic elections is evidently an important part of the process of re-establishing a state's legitimacy, and thus of contributing the peacebuilding process. In the past, Canada has played an important role, and will no doubt continue to do so, in providing assistance, in support of various peacebuilding processes, to electoral reform and to election monitoring. It is obvious that, without an effort to construct democratic conditions of governance, without mechanisms to negotiate social demands in a peaceful and institutionalized manner, little progress towards lasting peace can be achieved.

An Apparent Paradox

All societies need a certain level of cohesion for the maintenance of public order and governmental legitimacy. The building of democratic institutions and their capacity to combat violence requires a political change aimed at restoring the legitimacy of political institutions.

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[1] BANGURA, Yusuf (1994). *The Search for identity, ethnicity, religion and political violence,* (Occasional paper no. 6; world summit for social development. Geneva: United Nations Research Institute for Social Development.

[2] *Idem*, p. 34

[3] *Idem*, p. 38.

Ironically, in many cases of armed conflicts, the observed violence is itself a direct result of the erosion of the state's legitimacy and capacity to mediate various social struggles. Insofar as the formal rules of democracy lack legitimacy in the eyes of a significant segment of the population, they will not be respected.

In post-conflict situations, one is often confronted with a paradox: on the one hand, necessary democratic institutions can only be properly established once the social wounds created by the conflict have had a chance to heal, and yet, the healing cannot take place until certain minimum conditions have been created through the establishment of these very same institutions. The healing process we just alluded to is a complex one. Michael Ignatieff asked: "Can we speak of nations 'working through' a civil war or an atrocity the way we think of individuals working through a trauma in their own lives?"[4]. How does a society reconcile itself with its violent past, with the injustices created sometimes by both the conflict and the peace agreement? In many cases, war-torn societies have to choose between peace and democracy on the one hand, and justice on the other. Many have to learn to tolerate impunity for past abuses in the interest of promoting peace. Ignatieff concludes: " Truth is truth; justice is justice. Neither is social or institutional reform"[5].

Governance Issues

The concept of political reintegration is sometimes used to describe the process through which the democratic political capacities of actors within both the state and civil society are developed and strengthened[6]. In post-conflict situations, the state normally lacks the capacity to undertake basic governance functions. Since the collapse of Somalia in the early 1990s, the notion of the "failed state" has gained prominence in an attempt to more clearly identify this dimension of the problem. In the words of former Canadian diplomat Geoffrey Pearson, a failed state is therefore also one which is "unable to provide security for its people because of a collapse of authority"[7]. The reinstatement of a credible structure of authority remains a pre-requisite to good governance and lasting peace.

> Support for national and judicial capacity building is an indispensable dimension of the reintegration process. This entails the provision of assistance and support to states in their efforts to develop the structures and operational systems to enhance their capacity to meet international legal obligations and to strengthen the rule of law and respect for human rights"[8]

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[4]IGNATIEFF, Michael (1996). "Truth, justice and reconciliation", *National*, November/December 1996, pp. 30-37, at page 30.

[5] *Idem*, p. 32.

[6] BUSH, Kenneth (1997). *"Peacebuilding and Post-Conflict Reconstruction - A Briefing Paper"*, (Unpublished, January 1997), distributed at the Peacebuilding Consultation 1997. Department of Foreign Affairs and International Trade, Ottawa, Feb. 7, 1997.

[7] See: *"States Without Law: the Role of Multilateral Intervention to Restore Local Justice Systems", Final Report* - December 1995. Vancouver: The International Centre for Criminal Law Reform and Criminal Justice Policy and the Canadian Committee for the 50th Anniversary of the United Nations., p. 1

[8]BUSH, K. (1997), p. 8.

Promoting Participation and Democracy

The dynamism of a culture of peace lies in human beings having a sense that they are, at least partly, in control of their own destiny. They must have a sense that they have access to meaningful opportunities to participate in shaping their society. No one should feel excluded.

The building of trust amongst individuals, groups and communities, and between the state and civil society, is a complex and necessarily incremental process. Maintaining that trust, and thus a modicum of social peace, through a long and arduous reconstruction process, is even harder. There are unfortunately numerous examples of emerging democracies where public support for democratic values is eroded and threatened by a public perception that the state is either unable or unwilling to deliver on its promise to provide public safety through legitimate, fair and yet effective law enforcement and criminal justice practices.

Values such as democracy, political inclusion and participation should clearly continue to guide Canada's policy in the area of international peacebuilding. However, unless they are accompanied by a clear understanding of what concrete tasks are required as part of a successful peacebuilding process, these values could amount to little more than a form of ideological imperialism.

We are apparently all prepared to accept that some form of electoral democracy is still the best way to create and support the legitimacy of government institutions. It presumably does so by opening up alternative forms of communication, participation and conflict resolution and thus reducing the need for any party to resort to violence. However, the task of encouraging and assisting democratic consolidation, whether in a post-conflict situation or not, remains a complex one. It not always clear that it is possible to successfully intervene a country where there is not already an indigenous process allowing citizens to learn their own lessons[9].

Finally, when the concept of social or political integration is used to define the goals of social development or peacebuilding activities, it often create a number of difficulties:

> "It is intellectually easy and often politically expedient to assume that grave problems of poverty and injustice can be alleviated through "including" people formerly "excluded" from certain activities and benefits. Yet in many cases, the existing pattern of development may be economically and ecologically unsustainable, or politically repressive. Therefore it is always necessary to ask "*inclusion in what and on what terms?*""[10].

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[9] International Institute for Democracy and Electoral Assistance (1996). *Report of Proceedings: Roundtable on National Capacity-Building For Democracy.* Strömsborg, Stockholm, 12-14 February 1996.

[10] United Nations Research Institute for Social Development (1994). *Social Integration: Approaches and Issues.* UNRISD Briefing Paper Series 1, World Summit for Social development. Geneva: UNRISD

Promoting Human Security

It should also be clear that electoral democracy, in itself, is not nearly enough to protect peace. Both emerging and old democracies continue to be plagued by the problem of violence. Democratic institutions everywhere are often de-legitimized and discredited as a result of their apparent inability to deliver citizen security. Human security is the other crucial dimension of the peacebuilding process.

We all understand the state's need to enforce rules, that these must be legitimate and in accordance with basic human rights, that these rules must be respected, that the state must secure a monopoly on force and that it must be able to use legitimate means of coercion. It should be obvious that without credible and efficient systems of justice, without the guarantee that anyone who abuses power, violates human rights, or arbitrary assaults, dispossesses or coerces others will receive appropriate punishment, without the secure knowledge that the state will protect its citizen, out efforts to nurture peace will amount to nothing. The power vacuum created by the conflict must be addressed quickly before it is too easily exploited by criminal elements.

> "the post-conflict environment is typically characterized by uncertainty and insecurity. The proliferation of small arms, a lack of employment opportunities for ex-combatants, weakened social institutions, an a war-induced black economy in illicit goods and services, may all contribute to the creation of an environment conducive to the rise of a robust criminal sub-culture. Within this political, legal and social vacuum, criminality may replace militarized violence as the principal source of insecurity. At a very personal level of experience, this is a problem which touches a vast number of the war-affected population"[11]

There really is no doubt that the creation of the conditions necessary to make a state viable, democratic and stable in a post conflict situation necessarily involves, as a matter of urgent priority, the construction of fair, credible and effective criminal justice institutions. That task is urgent for a number of reasons, not the least of which are: (1) the provision of public safety and of an end to impunity are two of the most pressing demands that the population generally places on the "new" state; and, (2) war-torn countries, because of the state of social and institutional disintegration in which they are found, have been rendered particularly vulnerable to violence, corruption, crime and other predatorial activities, particularly those of organized and trans-national criminal elements.

We are asked to reflect on the kind of tools that would be most useful to give effect to Canada's determination to contribute practically to various peacebuilding efforts around the world. Some models are being proposed, but in fact, existing models have been around for far too short a period of time for anyone to be in a position to properly assess their chances of success. To be sure, our accumulated experience in the area of international development, particularly in social development, offers us some guidance. But, conflict and post-conflict situations may offer challenges of a very different nature.

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[11] BUSH, K. (1997). *Op. cit.*, p. 2.

An Agenda For Action

Countries like Canada are increasingly called upon to perform activities aimed at national reconciliation and rebuilding, like drafting constitutions, instituting administrative and financial reforms, strengthening domestic laws, enhancing judicial structures, training human rights officials and helping opposition movements transform themselves into democratically competitive political parties.

Leaving aside, for the moment, the broader question of direct support to the institutional instruments of democracy, we can perhaps now focus on the issue of providing concrete support to the rule of law and, in particular, on the concrete means through which local criminal justice systems can be supported by technical assistance and other initiatives to ensure that they themselves contribute fully to the peacebuilding process. What kind of concrete initiatives to assist in the reconstruction of a country's criminal justice system are more apt to create the temporary space where peace may grow?

There is an increasing recognition that democracy and a better quality of life can only flourish in a context of peace and security for all. Crime poses a threat to stability and to a safe environment. Crime prevention and criminal justice, with due regard to the observance of human rights, is thus a direct contribution to the maintenance of peace and security.

After the end of a conflict, the prompt re-establishment of a country's criminal justice system is a fundamental and urgent requirement for a functioning democracy. Efforts to re-establish a country's criminal justice system should also be considered in tandem with the development of other democratic institutions. Almost always in post-conflict situations, success in building democratic institutions and in reviving a country's economy largely depend on the observance of the rule of law and adequate human security. One of the important objectives of peacebuilding initiatives is thus to ensure that the criminal justice becomes capable of ensuring the maintenance of law and order, with due consideration to the protection of civil rights and basic freedoms. The provision of a legislative basis for the protection of human rights is clearly a priority for action[12].

Elements of an Intervention Strategy[13]

The criminal justice system is among those institutions that suffer most in conflict situation. At first, an attempt is usually made to make it subservient to those exercising political power. When it appears unlikely that it will lend itself to the attainment of

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[12] *The United Nations crime prevention and criminal justice programme in the context of peace-keeping and peace-building*, presented to the Commission on Crime Prevention and Criminal Justice, 22 May 1996, E/CN.15/1996/CRP.7, p. 11.

[13] Most of the content of this section is borrowed from : *The United Nations crime prevention and criminal justice programme in the context of peace-keeping and peace-building*, presented to the Commission on Crime Prevention and Criminal Justice, 22 May 1996, E/CN.15/1996/CRP.7

unlawful objectives, it often becomes a target for destruction. In other instances, the criminal justice system was party to the injustices which led to the violent confrontation. In any event, the criminal justice system by its very nature is unlikely to function properly in a conflict situation characterized by an emergency situation.

What are the elements of an intervention strategy to rebuild a criminal justice system after a violent conflict?

- **A Review of the local situation**

A thorough review of the situation prevailing in a country after a conflict is crucial to the understanding of what demands are likely to be placed upon the legal institutions and, in particular, on the criminal justice system. At this preliminary stage, efforts should center on obtaining a comprehensive knowledge of the political process, balance of power and background to the particular conflict.

- **Needs assessment**

The purpose of this phase should be to examine the situation of a country's criminal justice by evaluating the demands placed upon it and determining the action required to render it capable of meeting them. The needs assessment should build on the information and conclusions of the review of the local situation and examine each component of the criminal justice system. The needs assessment should pay particular attention to the legal framework, and the human and other resources required.

The review of a country's legislative framework should aim to determine the needs for new legislation, legislative amendments or reforms, in accordance with the post-conflict situation, the provisions of peace-agreements, and the demands placed on the criminal justice system. Particular attention must be given to obtaining a thorough knowledge and understanding of the country's legal system and legal tradition. There is also a need to determine the level of professional knowledge and expertise available locally (including in neighboring countries). The needs assessment should determine the manner and time frame for addressing issues related to human resources development as part of the broader issue of the management and restructuring of the public service. The efficient functioning of a criminal justice system also depends on the material resources placed at its disposal to support operations. There is a need for a basic infrastructure that includes among other things, facilities and equipment. Financial resources are needed to ensure that the criminal justice personnel can operate in an adequate fashion. This is particularly relevant to establishing and safeguarding the independence of members of the judiciary and ensuring that the criminal justice system has personnel of unquestionable integrity and high professional standards.

□ Provision of Technical Assistance

Practical assistance in the reform or re-establishment of a country's criminal justice system would usually be clustered in the following three major areas: (1) advisory services; (2) training; and, (3) material assistance. It is very likely that assistance in all three categories will be required simultaneously in a post-conflict situation. Practical assistance should be principle-based and conform to certain standards in order to have the maximum possible impact. Training and the provision of material assistance should be designed in such a way as to create a basic sustainable infrastructure and give the country the possibility to proceed on its own. It should be designed to ensure a multiplier effect.

Any assistance should draw in particular on universally accepted principles, such as the United Nations human rights and criminal justice instruments, standards and norms, while taking into account local traditions, customs and specific needs. It should be structured so as to ensure that the criminal justice system can meet them as soon as possible.

□ Protection of Victims of Crime and Abuse of Power

In a post-conflict situation, the need of victims of crime and abuse of power are very complex and require immediate attention. Attending to these needs is part of the healing process referred to earlier. Civilians are often the main targets and victims of conflicts. Any serious attempt to provide assistance both in preventing the eruption of new conflict and in peacebuilding following conflicts must address the issues of the protection and compensation of victims. redress and compensation for victims, in fact, are essential to secure justice and reconciliation in countries ravaged by conflict. The application of the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* would be a first step. Practical instruments have now been developed to facilitate the implementation of the Declaration.

Conclusion

We have perhaps succeeded in convincing you of the importance of timely, but not precipitous, interventions to help nations recover from violent conflicts, build new democratic institutions and the justice system to back them up. Governance and establishing the rule of law are two sectors which simply cannot be neglected. They are essential prerequisites for reconciliation, reconstruction and economic recovery.

If you agree that this is so, you may perhaps offer, during the consultation forum, your own suggestions about the mechanisms and processes that will have to be set in place to ensure that Canada develops a permanent and rapidly deployable capacity to contribute to these two important aspects of peacebuilding. At present, the capacity is perhaps more virtual than concrete. We are interested, in particular, in hearing your suggestions about

how young people and young professionals could be included in these initiatives and about what kind of special contribution you think they can make. Another area you may also wish to focus on is how the nature and importance of peacebuilding initiatives could be better explained to the Canadian public. We thank you for your participation.

ANNEX III

Questions Suggested to Participants

PEACEBUILDING AND CRIMINAL JUSTICE ISSUES:
IMPLICATIONS FOR CANADIAN FOREIGN POLICY

STUDENT CONSULTATION FORUM
ABBOTSFORD, MARCH 24, 1997

Questions for Discussions on Thematic Issues

General Questions for All Workshops

What specific contributions can Canadians and Canadian institutions best make to the reconstruction of fair, credible and effective criminal justice institutions in post-conflict situations?

What strengths do young Canadians bring to the task of peacebuilding, particularly in the area of rebuilding criminal justice institutions?

What specific activities in the field of criminal justice are most relevant to the success of the peacebuilding process?

What are the priority issues involved in rebuilding criminal justice institutions?

What risks are involved in participating in the rebuilding of social control institutions in a peacebuilding context?

How can the credibility of local partners be ascertained?

What lessons can be learned from our civilian policing experience and integrated into peacekeeping and peacebuilding operations?

What is the importance of assisting populations to rebuild and strengthen their civilian institutions?

How can indigenous justice methods be incorporated into the criminal justice system?

How can our own experience with indigenous justice issues benefit societies in transition?

How can the credibility of the state and the criminal justice system be increased and maintained?

What are the components that effect the level of trust between government and citizens?

What comprises trust between communities / ethnic groups / regions, and what can be done to raise that trust?

What is the potential for criminal law and constitutional reforms toward building and maintaining peace? What are the limitations of legal reforms?

ANNEX IV

List of Participants

LIST OF PARTICIPANTS

CONSULTATION ON PEACEBUILDING AND CRIMINAL JUSTICE ISSUES

March 24, 1997
Abbotsford, B.C.

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